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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,852	12/14/2000	Axel Schamal	225/49355	5694

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EXAMINER

REIS, TRAVIS M

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 11/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,852

Applicant(s)

SCHAMAL, AXEL

Examiner

Travis M Reis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All. b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Objections

2. Claims 1, 3-5, 8-10 are objected to because of the following informalities:
3. Regarding claims 1, 5, 8-10, the phrase "can be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 4, & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over in Hall (U.S. Patent 2419134) view of Zickler et al. (U.S. Patent 2526526).

Hall discloses, in Figure 3, a device utilizable in holes (28) comprising a screw (61) with screw threads on its upper part, an attachment element (4) which can be connected releasably to the spike via its own screw threads and rests (3) on the component surface, wherein the attachment element has a partially spherical shell (1) made of non-magnetic material (Figures 1, 3, & 8).

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Hall does not disclose expressly a spike, an insert arranged within the shell and made of magnetic material, wherein a lower edge of the shell bears substantially flush against a lower side of the insert.

Zickler discloses a magnetic layout punch with a spike (25), an attachment element (18) which can be connected releasably to the spike and rests on the component surface (10), wherein at least part of the attachment element is produced from a magnetic material (19), wherein the attachment element has a shell (14) made of non-magnetic material and an insert (19) arranged within the shell and made of magnetic material, wherein a lower edge of the shell bears substantially flush against a lower side of the insert (Figure 2). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to replace the screw head disclosed by Hall with the spike disclosed by Zickler et al. in order that be more easily insertable into holes; and add the magnetic material insert disclosed by Zickler et al. to the shell disclosed by Hall in order that the locator can fit on metallic objects upside down.

Hall does not disclose expressly the device is used for determining the position of or for measuring a hole in a body part of a motor vehicle. However, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

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6. Claims 5, 8-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Hall in view of Zickler et al. as applied to claims 1, 3, 4, & 6 above, and further in view of Holmes (U.S. Patent 4220187).

Hall & Zickler et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1, 3, 4, & 6, but do not disclose expressly a spike fastened to the attachment element in an asymmetrical manner with respect thereto.

Homes discloses a self-locking fastener with an attachment element/nut (12) to which the bolt (10) fastens to in an asymmetrical manner with respect thereto (Figures 1-3, 5, & 7). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to replace the attachment element taught by Hall & Zickler et al. with the asymmetric attachment element/nut disclosed by Holmes in order that the spike could be locked into place of the attachment element.

Response to Arguments

7. Applicant's arguments with respect to claims 1-4 & 6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gartner discloses a screw drive means using auxiliary meshing rollers (U.S. Patent 3789678). Pinchback discloses an asymmetric nut (U.S. Patent 4195678). Kuttler et al. discloses a clamp-like, sheet metal, slip-on nut (U.S. Patent 4243086). Le discloses a through bolt connection for unilaterally accessible locations (U.S. Patent 4789287).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (703) 305-4771. The examiner can normally be reached on 8:00--5:00 Monday--Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

tmr
November 7, 2002